

REMARKS

Claims 8, 10 and 19-21 are pending in the present application.

Claims 8, 10 and 19-21 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,197,719 (the "'179 Patent"). The Examiner states: "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because the same method of use for treating HIV infection embraced in the instant claims are also taught for a subgenus of compounds in the US Patent 6,197,719." Applicants respectfully traverse this rejection.

In the '179 Patent, only the R<sup>5</sup> substituent has a fixed position on the pyrimidine ring; the L, Q and -NR<sup>3</sup>-phenyl (or pyridyl) substituents float freely on the pyrimidine ring and may be attached at any position. By contrast, in the instantly claimed compounds, all of the substituents (L, Y, Q and -NR<sup>3</sup>-phenyl (or pyridyl)) are attached to the pyrimidine ring in fixed positions. The Y substituent in the instant application corresponds to the R<sup>5</sup> substituent of the '179 Patent. While the R<sup>5</sup> substituent is limited to hydrogen or C<sub>1-4</sub> alkyl in the '179 Patent, the corresponding Y moiety in Applicants' claimed compounds may be hydroxy, halo, C<sub>3-7</sub>cycloalkyl, C<sub>2-6</sub>alkenyl optionally substituted with one or more halogen atoms, C<sub>2-6</sub>alkynyl optionally substituted with one or more halogen atoms, C<sub>1-6</sub>alkyl substituted with cyano or -C(=O)R<sup>6</sup>, C<sub>1-6</sub>alkyloxy, C<sub>1-6</sub>alkyloxycarbonyl, carboxyl, cyano, nitro, amino, mono- or di(C<sub>1-6</sub>alkyl)amino, polyhalomethyl, polyhalomethoxy,

polyhalomethylthio,  $-S(=O)_pR^6$ ,  $-NH-S(=O)_pR^6$ ,  $-C(=O)R^6$ ,  $-NHC(=O)H$ ,  $-C(=O)NHNH_2$ ,  $-NHC(=O)R^6$ ,  $-C(=NH)R^6$  or aryl.

Applicants submit that Claims 1-4 of the '179 Patent would not motivate one of ordinary skill in the art to use the instantly claimed compounds of formula (I) for treating HIV infection wherein all of the substituents on the pyrimidine ring are in fixed positions and wherein the Y group (corresponding to  $R^5$  in the '179 Patent) may be a wide variety of moieties as described above. Thus, Applicants maintain that Claims 1-4 of the '179 Patent do not render Applicants' claimed invention obvious. Applicants therefore respectfully request that the Examiner withdraw the rejection of Claims 8, 10 and 19-21 under the judicially created doctrine of obviousness-type double patenting.

Applicants maintain that the application is in condition for allowance and passage to issue is earnestly requested.

Respectfully submitted,

  
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